

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**DOTY PROPERTIES, LLC; J. RICHARD
DOTY; MARTHA ANNE DOTY; and
AZALEA GARDENS, LLC,**

PLAINTIFFS,

VS.

CIVIL ACTION NO. 3:06CV62-P-A

APC PARTNERS II, LLC,

DEFENDANT.

ORDER

This matter comes before the court upon Defendant's Motion to Dissolve Temporary Restraining Order [23-1]. Upon due consideration of the motion, the court finds as follows, to-wit:

The Chancery Court of Lafayette County, Mississippi granted the plaintiff's motion for a TRO on April 24, 2006. The defendant removed this case to federal court on April 28, 2006. This court entered an Order providing that the TRO "in this case is hereby continued until the remand issue is ruled upon." On this day, this court denied the plaintiffs' motion to remand.

On June 2, 2006 beginning at 3:30 p.m., the court conducted a telephonic conference in which each party was represented. During said conference, the court instructed the parties that a hearing for the plaintiff's preliminary injunction would commence at 10:00 a.m. on Thursday, June 22, 2006 and that the parties would have until June 19, 2006 by which to file their respective briefs. Furthermore, the defendant consented to extending the TRO until the hearing.

Fed. R. Civ. P. 65(b) provides in pertinent part that a TRO "shall expire by its terms within such time after entry, not to exceed 10 days, as the court fixes, **unless** within the time so fixed the order, for good cause shown, is extended for a like period **or** unless the party against whom the order is directed consents that it may be extended for a longer period."

The court concludes that the instant motion to dissolve the TRO should be denied because: (1) the plaintiffs have shown good cause to extend the TRO until the hearing set for June 22, 2006 given that the defendant's removal of this action to this court acted to stay the underlying state court proceedings; and (2) the defendant consented during the telephonic conference to an extension of the TRO until the June 22, 2006 hearing.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant's Motion to Dissolve Temporary Restraining Order [23-1] is **DENIED**.

SO ORDERED this the 2nd day of June, A.D., 2006.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE